

EXHIBIT A

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SUPERIOR COURT FOR THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

MORENO FREIGHT LLC, an Arizona
limited liability company,

Plaintiff,

vs.

PENNSYLVANIA MANUFACTURERS
ASSOCIATION INSURANCE
COMPANY,

Defendant.

Case No.: CV 2019-095985

COMPLAINT

Plaintiff Moreno Freight LLC, for its Complaint against Defendant Pennsylvania
Manufacturers Association Insurance Company, alleges as follows:

THE PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Moreno Freight LLC ("Moreno Freight") is an Arizona limited
liability company doing business in the State of Arizona with its principal place of
business in Maricopa County, Arizona.

1 2. Defendant Pennsylvania Manufacturers Association Insurance Company
2 ("PMAIC") is an insurance company domiciled in the State of Pennsylvania and doing
3 business in Maricopa County, Arizona.
4

5 3. Jurisdiction and venue are appropriate in this Court because the cause of
6 action arose in Maricopa County, Arizona and PMAIC delivered a policy of insurance to
7 Moreno Freight in Maricopa County, Arizona.
8

9 4. The amount in controversy is within the minimum jurisdiction amount
10 established for filing the action.
11

12 **GENERAL ALLEGATIONS**

13 5. Moreno Freight is a trucking company.
14

15 6. PMAIC is a subsidiary of PMA Companies. PMA Companies is part of the
16 Old Republic General Insurance Group, the largest business segment within Old Republic
17 International Corporation, one of the nation's 50 largest shareholder-owned insurance
18 organizations and a Fortune 500 company.
19

20 7. Moreno Freight purchased insurance from PMAIC to cover its trucking
21 business.
22

23 8. PMAIC insured Moreno Freight under, *inter alia*, policy number 811801-
24 9815465Y for the effective period of October 6, 2018 through October 6, 2019 for motor
25 truck cargo coverage, as well as Commercial Inland Marine coverage.
26

27 9. On or about July 11, 2019, Moreno Freight was hauling a load for its client,
28 Revi Freight.
29

30 10. Moreno Freight was utilizing its 2012 Freightliner Cascadia 125 with trailer.
31

1 11. On or about July 11, 2019, after Moreno Freight's driver went into a store in
2 Quartzite Arizona, he came outside to find the trailer load on fire.

3 12. Moreno Freight suffered damage to the cargo and to its truck and trailer.

4 13. On or about July 12, 2019, Moreno Freight submitted its claim to PMAIC
5 for the July 11, 2019 fire.

6 14. No later than August 19, 2019, PMAIC was aware of Moreno Freight's
7 claim for the July 11, 2019 fire.

8 15. In a letter dated September 3, 2019, PMAIC denied Moreno Freight's claim
9 as follows: "PMAIC disclaims coverage as your policy was cancelled on June 26, 2019
10 which was prior to the loss date of July 11, 2019. As this loss did not commence during
11 your policy period with PMAIC there is no coverage for this loss."

12 16. The policy was never terminated by PMAIC.

13 17. Under Arizona law, A.R.S. § 20-1674, a notice of cancellation for lack of
14 payment must be sent at least ten days prior to the date of cancellation, and must be
15 "mailed with the insurer obtaining proof of mail by United States certified mail or first
16 class mail using intelligent mail barcode or another similar tracking method used or
17 approved by the United States postal service."

18 18. A.R.S. § 20-1674 sets forth as follows:

19 20-1674. Notice of cancellation; refund of unearned premium

20 A. No cancellation under section 20-1673 is effective unless the
21 insurer mails or electronically delivers, consistent with the
22 requirements of title 44, chapter 26, a copy of the notice of
23 cancellation to the insured's agent and written notice of the
24 cancellation is mailed with the insurer obtaining proof of
25 mailing by United States certified mail or first class mail using

intelligent mail barcode or another similar tracking method used or approved by the United States postal service to the named insured at the address shown in the policy or to the last known address of the insured at least forty-five days before the effective date of the cancellation, except that, if cancellation is for nonpayment of premium, at least ten days' notice of cancellation must be given. The notice must state the specific facts that constitute the grounds set forth in section 20-1673 that are relied on.

B. The notice of cancellation and any refund of unearned premium may be mailed separately, but both must be mailed within the time frames established in subsection A, of this section. If a premium has been financed, a refund of unearned premium shall be returned as provided in section 6-1416.

(Emphasis added).

19. PMAIC never sent valid cancellation notice in conformance with Arizona law.

20. PMAIC has not produced proof that a cancellation notice was sent pursuant to Arizona law.

21. As a result of PMAIC's failure to promptly pay the claim, Moreno Freight sustained the following losses related to the July 11, 2019 fire in the trailer:

a) Loss of entire load of cargo— plastic pellets	\$ 24,000.00
b) Trailer was totaled – value of trailer	19,309.00
c) Lost of earnings for payment of shipment	650.00
d) Parker Towing – towing from Quartzite to Vicksburg	13,677.95
e) Loss of use of trailer – July 11 – November 30 143 days X \$880 per day (\$26,400 monthly)	125,840.00
f) Loss of revenue from Revi Freight annually	<u>162,729.00</u>
	\$346,205.95

22. Moreno Freight's loss of use of the trailer is \$26,400.00 per month (\$880 per day). The amount from July 11, 2019 to November 30, 2019 is \$125,840.00. This amount will continue to accrue until Moreno Freight's claim for coverage is granted.

23. Moreno Freight has lost revenue due to its client, Revi Freight, no longer employing Moreno Freight. Moreno Freight's annual income from Revi Freight is no less than \$162,729.00 per year. This amount will continue to accrue until Moreno Freight's claim for coverage is granted.

24. On or about September 17, 2019, Moreno Freight's driver, Alberto Corrales, was involved in an accident on Interstate 8 in Gila Bend, Arizona.

25. At the time of the accident, Moreno Freight was hauling tomatoes for its client, Bright Group.

26. The impact of the accident caused the failure of the refrigeration unit which in turn caused spoliation of the contents of the trailer.

27. Moreno Freight sustained the following losses related to the September 17, 2019 accident:

Truck cab – totaled	\$ 46,675.00 + tax
Trailer – totaled	27,347.00 + tax
Damaged cargo – tomatoes	63,685.00
Towing/storage as of 11/4/19	35,478.00
Amount still due and owing by Bright Group	6,250.00
Driver – Alberto Corrales - hospital expense	1,325.00
Driver – additional compensation	300.00
Loss of use of trailer - \$1,000 per day from September 18, 2019 to November 30, 2019	73,000.00
Loss of revenue from Bright Group	<u>\$112,640.00</u> annually
	\$366,700.00

1 28. Moreno Freight's loss of use of the trailer of \$24,600.00 per month
2 (\$880.00 per day) continues to accrue and will continue to accrue until Moreno Freight's
3 demand for coverage is granted.

4
5 29. Moreno Freight's loss of revenue from Bright Group in the amount of
6 \$112,640.00 will continue to accrue until Moreno Freight's demand for coverage is
7 granted.

8 30. Moreno Freight demanded that PMAIC cover both the September 17, 2019
9 loss in addition to the July 11, 2019 loss already denied by PMAIC.

10
11 31. On November 13, 2019, PMAIC confirmed denial of the September 17,
12 2019 loss.

13 32. As a result of PMAIC's denials, Moreno Freight has sustained damages and
14 loss of revenue and continues to sustain loss of revenue.

15
16 33. As a further result of PMAIC's denials, Moreno Freight continues to pay
17 interest on equipment that it cannot use.

18 34. Moreno Freight is entitled to court costs and attorney's fees pursuant to
19 A.R.S. § 341 and § 341.01.

20
21 **COUNT ONE**

22 **BREACH OF CONTRACT**

23 35. Moreno Freight repeats and realleges each and every allegation contained in
24 paragraphs 1 through 34 of this Complaint as though fully set forth herein.

25
26 36. Moreno Freight entered into an agreement with PMAIC to provide motor
27 truck cargo coverage, as well as Commercial Inland Marine coverage.

37. Moreno Freight performed its obligations in compliance with the agreement making all required payments.

38. PMAIC breached its agreement with Moreno Freight by failing to provide insurance coverage to the insurance policy entered into between Moreno Freight and PMAIC.

39. As a result of the breach, Moreno Freight has suffered damages.

COUNT TWO

BREACH OF IMPLIED DUTY OF GOOD FAITH AND FAIR DEALING

40. Moreno Freight repeats and realleges each and every allegation contained in paragraphs 1 through 39 of this Complaint as though fully set forth herein.

41. Implied in every insurance policy is a duty of good faith and fair dealing.

42. Moreno Freight claims that PMAIC breached the duty of good faith and fair dealing by intentionally denying the insurance claims of Moreno Freight without a reasonable basis for such action.

43. PMAIC failed to perform an investigation or evaluation adequate to determine whether its action was supported by a reasonable basis.

44. As a result thereof, Moreno Freight suffered damages.

WHEREFORE, Moreno Freight is entitled to judgment in its favor, against Defendant PMAIC, for the following relief:

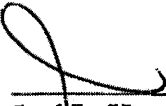
A. Money damages sufficient to fully and fairly compensate Moreno Freight for its damages.

B. Pre-judgment and post-judgment interest.

1 C. Reasonable attorney's fees and costs incurred pursuant to A.R.S. § 12-341
2 and § 341.01.

3 D. For such other and further relief as the Court may deem just and equitable.
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5 DATED this 11th day of December, 2019.

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8 _____
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